

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

DENALI NICOLE SMITH

v. MICHAEL DUNLEAVY, et al.

JUDGE H. RUSSEL HOLLAND

CASE NO. 3:19-cv-00298-HRH

PROCEEDINGS: ORDER FROM CHAMBERS

INITIAL CASE STATUS REPORT / CASE SCHEDULING & PLANNING

Pursuant to Rules 16(a) and 26(f), Federal Rules of Civil Procedure, and Local Civil Rule 16.1, counsel for all parties must meet within 14 days from service of this order for purposes of jointly completing a scheduling and planning report. The report should conform to Local Form 26(f), a copy of which is attached. Local Form 26(f) is available on the court's public website. See "Forms" tab, then "Local Forms", then "Civil Form 26(f) (All Judges)". <http://www.akd.uscourts.gov>.

Within 21 days from entry of this order, counsel for plaintiff shall serve and file the parties' report with the court.

In the event the parties to this case are actively engaged in settlement negotiations, counsel for plaintiff shall so advise the court within 7 days following entry of this order, and shall specify the date by which the parties expect to conclude their settlement negotiations.

*[Attorney's Name, Firm Name,
Address & Contact Information]*

[Case Caption]

SCHEDULING AND PLANNING CONFERENCE REPORT

I. Meeting.

In accordance with Rules 16(a) and 26(f), Federal Rules of Civil Procedure, and with Local Civil Rules 16.1 and 26.1(b), the parties conferred on **[date]**; the following persons participated: ***[Insert Attorney Names and Parties Represented]***. The parties recommend the following:

II. Discovery Plan.

A. Timing, Form and Disclosure Requirements. Please refer to Rule 26(f)(3)(A), Federal Rules of Civil Procedure. Are there changes that the parties are proposing to that rule for this case under Rule 26(a)?

Yes ___ No ___ ***[If yes, list proposed changes:]***

B. Initial Disclosures / Preliminary Witness Lists.

1. The information required by Rule 26(a)(1), Federal Rules of Civil Procedure:

(a) ___ Has been exchanged by the parties.

(b) ___ Will be exchanged by the parties on or before:
[date].

2. Preliminary witness lists:

(a) ___ Have been exchanged by the parties.

(b) ___ Will be exchanged by the parties on or before ***[date]***.

3. Disclosure Statement. The disclosure requirements of Rule 7.1, Federal Rules of Civil Procedure:

(a) ___ Have been complied with.

(b) ___ Compliance will be accomplished on or before
[date].

(c) ___ Rule 7.1 is not applicable.

C. Subjects and Timing of Discovery. See Rule 26(f)(3)(B), Federal Rules of Civil Procedure.

1. List the subjects on which discovery may be needed:

2. Should discovery be conducted in phases or limited to or focused on particular issues? Yes ___ No ___ ***[If yes, please describe the proposed phases or limitations:]***

3. Absent good cause, the proposed date for completion of all discovery should be no later than **twelve months** from the date of this report. ***[If one or both parties contend that***

***good cause exists for additional time for discovery,
please explain:]***

4. **Final Discovery Witness List.** A final discovery witness list disclosing all lay witnesses whom a party may wish to call at trial shall be served and filed on ***[date] [this date must be not less than 45 days prior to the close of fact discovery].***¹
5. **Close of Fact Discovery.** Fact discovery will be completed on or before ***[date] [see paragraph C.3 above].***
6. **Expert Discovery.** See Rule 26(a)(2), Federal Rules of Civil Procedure.
 - (a) Expert witnesses shall be identified by each party on or before ***[date]***, and each party may identify responsive supplemental expert witnesses within 14 days thereafter.
 - (b) Expert disclosures (reports) required by Rule 26(a)(2) will be disclosed:
 - (i) By all parties on or before ***[date]; or***

¹ Each party shall make a good faith attempt to list only those lay witnesses that the party reasonably believes will testify at trial.

By plaintiff(s) on or before **[date]**, and by
defendant(s) on or before **[date]**;

(ii) Rebuttal reports on or before 30 days from the
service of the report being rebutted.

(c) Expert witness discovery (include depositions) shall be
completed by: **[date]** **[see paragraph C.3 above]**.

D. Preserving Discovery and Electronically Stored Information (ESI)

1. Are there issues about the disclosure, discovery, or preservation of
ESI, including the form or format in which it should be produced?

See Rule 26(f)(3)(C), Federal Rules of Civil Procedure.

Yes ___ No ___ **[If yes, please identify the issue(s):]**

2. Please state how ESI should be produced: **[Explain:]**

3. Are there issues with preserving non-ESI discovery?

Yes ___ No ___ **[If yes, please identify the issue(s):]**

E. Claims of Privilege or Protection of Attorney Work Product

See Rule 26(f)(3)(D), Federal Rules of Civil Procedure.

1. ___ There is no indication that this will be an issue.

2. ___ The parties have entered into a confidentiality
agreement.

3. ___ The parties will file their proposed confidentiality agreement on or before: **[date]**.

F. Limitations on Discovery. See Rule 26(f)(3)(E), Federal Rules of Civil Procedure.

1. ___ The limitations contained in Rules 26(b), 30, and 33, Federal Rules of Civil Procedure, and in Local Civil Rules 30.1 and 36.1, will apply except as indicated below.
2. ___ The maximum number of depositions by each party will not exceed **[number]**.
- (a) ___ Depositions will not exceed **[number]** hours as to any deponent.
- (b) ___ Depositions will not exceed **[number]** hours as to non-party deponents.
- (c) ___ Depositions will not exceed **[number]** hours as to party deponents.
3. ___ The maximum number of interrogatories posed by each party will not exceed **[number]**.
4. ___ The maximum number of requests for admissions posed by each party will not exceed **[number]**.
5. ___ Other limitations: **[insert other limitations]**.

G. Supplementation of Disclosures and Discovery Responses.

Please refer to Rule 26(e)(1) and (e)(2), Federal Rules of Civil Procedure. Do the parties request that the Court enter an order that is different from these rules (e.g. supplementation at 30-day intervals)?

Yes ____ No ____ ***[If yes, explain:]***

III. Pretrial Motions.

A. Are there preliminary motions as to jurisdiction, venue, arbitration, and/or statutes of limitation that should be filed within 60 days?

Yes ____ No ____ ***[If yes, explain:]***

B. Motions must be served and filed within the times specified in applicable rules. Complete the following only if the parties are proposing deadline(s) that are different from the applicable rules:

1. Motions to amend pleadings or add parties will be filed not later than ***[date]***. Thereafter, a party must seek leave of the Court to modify this deadline. See Rule 16(b)(3)(A) and (4), Federal Rules of Civil Procedure.
2. Motions under the discovery rules will be filed not later than ***[date]***.
3. Dispositive motions (including motions for summary judgment) will be filed not later than ***[date]***.

4. Motions to exclude expert testimony shall be filed and served not later than **[date]**.

IV. Trial.

- A.** The case is expected to take **[number]** days to try.
- B.** Has a jury trial been demanded? Yes ___ No ___
- C.** Is the right to jury trial disputed? Yes ___ No ___
- D.** The parties ___ do / ___ do not request the scheduling of a trial date at this time.²

1. If a trial date is requested at this time, the parties' report shall include a minimum of three alternative dates for the start of the trial, at least two of which are 5 to 7 months from the close of all discovery.
2. If a trial date is not established at this time, the court will call upon the parties to certify that the case is ready for trial as provided in Local Civil Rule 40.1(b).

² The decision of whether to establish a trial date at this stage of the proceedings rests with the discretion of the assigned judge. Counsel and self-represented parties are advised to contact the assigned judge's Data Quality Analyst (DQA) to determine the judge's practice for establishing a trial date.

V. Other Provisions.

A. Court Conference. The parties ____ do / ____ do not request a conference with the court before entry of a scheduling order. ***[If requested, explain:]***

B. Consent to Proceed before a Magistrate Judge.

The parties ____ do / ____ do not consent to trial before a magistrate judge.

C. Early Settlement / Alternative Dispute Resolution.

1. Do the parties request immediate assistance by way of a settlement conference or alternative dispute resolution?

Yes ____ No ____ ***[If yes, explain:]***

2. Do the parties wish to consider private mediation or a settlement conference with a judicial officer of this court at a later date?

Yes ____ No ____

D. Related Cases. Are the parties aware of any related cases as defined by Local Civil Rule 16.1(e)? Yes ____ No ____ ***[If yes, describe:]***

VI. Report Form.

A. Have the parties experienced a problem in using this form?

Yes ____ No ____ ***[If yes, explain:]***

B. Are there additional subjects that the parties would propose to add to this form? Yes ____ No ____ ***[If yes, explain:]***

Dated: _____

[Signature Blocks]